

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

GRACIELA ESPINOZA,

Plaintiff,

v.

JUSTIN LANGLEY TRUCKING LLC and
BRANDON JAMES FORD,

Defendants.

Civil Action No. 7:21-cv-416

[Removed from the 275TH Judicial
District Court of Hidalgo County,
Texas]

**DEFENDANTS JUSTIN LANGLEY TRUCKING LLC
AND BRANDON JAMES FORD'S NOTICE OF REMOVAL**

TO THE HONORABLE U.S. DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Justin Langley Trucking LLC and Brandon James Ford (collectively “**Defendants**”) file this Notice of Removal and hereby jointly remove the above-entitled lawsuit from the 275th Judicial District Court of Hidalgo County, Texas, to the United States District Court for the Southern District of Texas, McAllen Division. In support of this removal, Defendants respectfully offer this Court the following facts, arguments and legal authorities:

I.

BRIEF FACTUAL AND PROCEDURAL BACKGROUND

1. This lawsuit involves an vehicular accident that occurred on July 17, 2021. *See Exhibit B* (Pl. Orig. Pet.) at ¶10. Plaintiff Graciela Espinoza (“**Plaintiff**”) filed this lawsuit in the 275th Judicial District Court of Hidalgo County, Texas on August 31, 2021. *Id.* at p. 1. In her petition, Plaintiff asserts causes of action against Defendants for negligence and negligent entrustment. *Id.* at ¶¶ 11–15. Both Defendants were served with

the original petition and citation on September 30, 2021. *See Exhibit C* (Notices of Service on Defendants). Defendants now timely file this Notice of Removal.

2. Prior to filing this Notice of Removal, Defendants filed an Answer in state court denying Plaintiff's allegations. *See Exhibit D*; FED. R. CIV. P. 81(c)(2) ("After removal, repleading is unnecessary unless the court orders it.").

3. Defendants' removal, as detailed further below, is based on complete diversity of citizenship between Plaintiff and Defendants, and Plaintiff's alleged damages exceed the jurisdictional limits of this Court.

II. **TIMELINESS OF REMOVAL**

4. Plaintiff served Defendants with a copy of her Petition on September 30, 2021. *See Exhibit C* (Notices of Service on Defendants). Pursuant to 28 U.S.C. § 1446(b)(1), Defendants now timely file this Notice of Removal within thirty (30) days after service and receipt of Plaintiff's Original Petition. Additionally, Defendants are removing within one year of commencement of the action, as required under 28 U.S.C. § 1446(c)(1).

III. **GROUND FOR REMOVAL**

5. Removal is proper because this Court has subject matter jurisdiction under 28 U.S.C. § 1332(a). Specifically, the basis of the removal of this action is diversity jurisdiction under 28 U.S.C. § 1332. Diversity jurisdiction exists in this case because there is complete diversity of citizenship between the parties, as Defendants are not citizens of

the State of Texas and the amount in controversy (per Plaintiff's petition) exceeds \$75,000.00, exclusive of interest and costs.¹

A. Amount in Controversy

6. In her Petition, Plaintiff expressly seeks to recover monetary damages "over \$1,000,000." *See Exhibit B* (Pl. Orig. Pet.) at ¶19; *see also* 28 U.S.C. §1446(c)(2) ("If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332 (a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy."). The amount in controversy therefore exceeds \$75,000, exclusive of interest and costs, as required under section 1332(a).

B. Diversity of Citizenship Between Properly Joined Parties.

7. There is also, as required under section 1332(a), complete diversity of citizenship between Plaintiff and Defendants because:

- a. Plaintiff, at the time of the initial filing of this action and at the current time of the removal of this action, was and is a citizen, resident and domicile of the State of Texas.
- b. Defendant Brandon James Ford, at the time of the initial filing of this action and at the current time of the removal of this action, was and is a citizen, resident and domicile of the State of Nebraska.
- c. Defendant Justin Langley Trucking, LLC is a citizen of Nebraska. Justin Langley Trucking, LLC is a limited liability company formed under the laws of Nebraska. Justin Langley is the sole member of the company. Justin Langley is a citizen of Nebraska, because he is a resident of Nebraska with the intent to remain indefinitely in Nebraska. As such, Justin Langley Trucking, LLC is a citizen of Nebraska. *See* 28 U.S.C. §1332(c)(1).

¹ *See* 28 U.S.C. § 1332.

IV.
CONSENT

8. Plaintiff has not named or served any other defendant in this lawsuit that would be required under 28 U.S.C. §1446(b)(2)(A) to provide consent to this removal. Both Defendants herein file this notice of removal, and both consent to removal.

V.
VENUE

9. Venue is proper in this Court under 28 U.S.C. § 1441(a), because this District and Division embrace the place in which the removed State court action has been pending. Specifically, the 275th Judicial District Court of Hidalgo County, Texas, is geographically located within the McAllen Division of the United States District Court for the Southern District of Texas. *See* 28 U.S.C. §124(b)(2).

VI.
COMPLIANCE WITH ALL PROCEDURAL REQUIREMENTS

10. Defendants have attached all documents required under 28 U.S.C. §1446(a) and Local Rule 81. A list of the documents is attached as **Exhibit A**.

11. On filing of this Notice of Removal, Defendants will promptly provide written notice to Plaintiff and file a copy of this Notice of Removal with the clerk of the State court where the suit has been pending, in accordance with 28 U.S.C. § 1446(d).

12. The filing fee has been paid to the Clerk of Court.

13. In addition, upon removal, Defendants will promptly file its Corporate Disclosure Statement, as required under Federal Rule of Civil Procedure 7.1.

14. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11.

15. In the event this Court subsequently identifies a defect in this Notice of Removal, Defendants respectfully request this Court to grant Defendants leave to amend this Notice to cure the defect. *See, e.g., Lafayette City-Parish Consol. Gov't v. Chain Elec. Co.*, No. 11-1247, 2011 WL 4499589, at *7 (W.D. La. Sept. 23, 2011) (explaining that “defendants may freely amend the notice of removal required by section 1446(b)”).

VII.

JURY DEMAND

16. Defendants made a jury demand in accordance with State law in the State court proceeding and has therefore preserved its right to a jury trial. *See* FED. R. CIV. P. 81(c)(3)(A).

VIII.


CONCLUSION

17. In conclusion, Defendants represent that it has properly complied with the removal statutes and rules set forth above, and this case thus stands removed from the 275th Judicial District Court of Hidalgo County, Texas, to the United States District Court for the Southern District of Texas, McAllen Division. Accordingly, the filing of this Notice, along with the filing of the notice in the State court and service of the notice upon Plaintiff’s counsel, serves immediately to confer exclusive jurisdiction of this cause upon this Court, and divests the State court of all jurisdiction over these proceedings and claims.

18. By filing this Notice of Removal, Defendants do not waive any legal defenses or objections to Plaintiff's Petition, but expressly reserve their rights to raise any and all legal defenses or objections in subsequent pleadings in this Court.

Respectfully submitted and signed pursuant to
Federal Rule of Civil Procedure 11,

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By: 

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ATTORNEY FOR DEFENDANTS
JUSTIN LANGLEY TRUCKING LLC
and BRANDON JAMES FORD

****Service by email or other electronic means
must include this address for proper service.**

CERTIFICATE OF SERVICE

I hereby by my signature below that a true and correct copy of the foregoing document was served on all counsel of record in compliance with the Federal Rules of Civil Procedure and the Local Rules for the Southern District of Texas on this the 29th day of October 2021.

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